IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Criminal Application No.3117 of 2007

State of Maharashtra Applicant

Vs.

Shriman Dharam Bhosale & ors. Respondents

Mr.D.P.Adsule, APP for State.

CORAM: B.H.MARLAPALLE, J.

September 24, 2007.

P.C.

. This is an application by the State seeking leave to appeal under Section 378(3) of Cr.P.C. against the order of acquittal passed in Sessions Case No.9 of 2007 by the learned Asst. Sessions Judge at Pandharpur. The accused came to be acquitted from the charges under Sections 143, 147, 148, 323 read with Section 34, Sections 341, 342,, 504, 506 read with Section 149 of IPC and under Section 3(1)(x) and 14 of the Scheduled Castes and Schedules Tribes (Prevention of Atrocities) Act, 1989 as well as Sections 3(a), 7(i)(d) and 10 of the

Protection of Civil Rights Act. The prosecution case was mainly based on the evidence of PW 1 - Mahadeo Limbaji Sawant, his wife PW 2 - Surekha Mahadeo Sawant and PW 3 - Vilas Shankar Ohal. Though PW 3 was claiming to be an eye-witness his depositions recorded at Exhibit 16 clear indicate that he came to know of the incident subsequently and went to the spot where he saw that the complainant was tied by a rope. PW 1 - the complainant himself admitted that PW 2 - Surekha was not present at the spot where the incident had taken place. The story told by him that a group of persons numbering 20 to 25 came to his house. He started running away in fear, they chases him and brought him back to the village and accused no.1 brought a rope and accused no.4 ties him with the rope and assaulted him, has been found to be suffering contradictions as is clear from his cross-examination and the depositions of the I.O. At the same time the evidence of PW 3 does not indicate anything about the culpability of any of the accused specifically. Having regards to the evidence of PW 1, PW 2, PW 3 and PW 4 - Vasant Macchindra Gaikwad, Head Master of the School, the reasoning set out by the trial Court in support of the order of acquittal does not call for reconsideration at the hands of

this Court.

. Hence leave to appeal is refused and the application is rejected.

(B.H.MARL